

Minutes
WARRICK COUNTY AREA BOARD OF ZONING APPEALS

Regular meeting to be held in the Commissioners Meeting Room,
Third Floor, Historic Courthouse,
Boonville, Indiana
May 29, 2018 at 6:00 P.M.

PLEDGE OF ALLEGIANCE

MEMBERS PRESENT: Jeff Valiant, Chairman; Terry Dayvolt, Doris Horn, Paul Keller, Mike Moesner, and Jeff Willis.

Also present were Sherri Rector, Executive Director, and Kim Kaiser, staff.

MEMBERS ABSENT: Mike Winge

MINUTES: Upon a motion made by Doris Horn and seconded by Mike Moesner the Minutes of the last regular meeting held March 26, 2018 and the minutes of no meeting for April 23, 2018 were approved as circulated.

Chairman, Jeff Valiant explained the rules of procedure.

BZA-V-18-08

APPLICANT & OWNER: Amy G. Berkley Living Trust by Amy Berkley, Trustee

PREMISES AFFECTED: Property located on the E side of Asbury Cemetery Road approximately 500 feet south of the intersection formed by Asbury Cemetery Rd. and New Harmony Rd. Campbell Twp. Lot No.5 in Three Lake Estates. *4288 Asbury Cemetery Rd.*

NATURE OF CASE: Applicant requests a variance from the requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, IN to allow an existing SFD not meeting the minimum front yard requirement of 25'. Applicant proposes the front yard setback to be 22', thus requesting a 3' relaxation from the regular requirements in an "A" Agricultural Zoning District. *Complete legal on file (advertised in The Standard on May 17, 2018)*

Chad Wagner was present.

The Chairman called for a staff report.

Mrs. Rector stated we have all of the green cards except for two, Ryan & Carla Forston and Gary and Brandie Howland. She said we have all of the white pay receipts and both of the letters were mailed in the correct time frame and to the correct addresses. She added this is a lot in an existing residential subdivision with a house currently being constructed. She said all surrounding property is zoned agricultural with residences to the north, south, east, and west. She stated there is no flood plain and the existing entrance is off Asbury Cemetery Rd. She stated the plat has granted 50' of right of way from the centerline of Asbury Cemetery Road instead of

the usual 25' which then moves the building set back line farther back. Mrs. Rector said the applicants' proposed statement: "House was inadvertently laid out inside of the building setback line."

The Chairman asked if Mrs. Rector knew why the right-of-way was 50' instead of 25'.

Mrs. Rector replied no she did not.

Ascertaining there were no questions from the Board and no remonstrators present the Chairman called for a motion.

I, Mike Moesner, make a motion to approve the Variance Application based upon and including the following findings of fact:

1. The grant of the Variance will not be injurious to the public health, safety, morals, and general welfare of the Community. As such, it is further found that the granting of the Variance shall not be materially detrimental to the public welfare.
2. The use or value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner. As such, it is further found that the granting of the Variance shall not result in substantial detriment to adjacent property or the surrounding neighborhood.
3. The need for the Variance arises from some condition peculiar to the property involved. The peculiar condition constituting a hardship is unique to the property involved or so limited to such a small number of properties that it constitutes a marked exception to the property in the neighborhood. Such condition is the right-of-way being 50' instead of 25' and lack of width of the lot.
4. The strict application of the terms of the Warrick County Comprehensive Zoning Ordinance will constitute a practical difficulty, unusual and unnecessary hardship if applied to the property for which the Variance is sought.
5. The approval does not interfere substantially with the Warrick County Comprehensive Zoning Ordinance adopted pursuant to IC 36-7-4-500 et seq.
6. The granting of the Variance is necessary in order to preserve a substantial property right of the petitioner to use the property in a reasonable manner, and not merely to allow the petitioner some opportunity to use his property in a more profitable way or to sell it at a greater profit.
7. That the hardship to the applicant's use of the property was not self-created by any person having an interest in the property nor is the result of mere disregard for or ignorance of the provisions of the Warrick County Comprehensive Zoning Ordinance.

8. The approval of the requested Variance is the least modification of applicable regulations possible so that the substantial intent and purpose of those regulations contained in the Warrick County Comprehensive Zoning Ordinance shall be preserved.
9. This Variance shall expire six (6) months after this date, UNLESS a Permit based upon and incorporating this Variance is obtained within the aforesaid six (6) month period or unless the provision of the Variance are adhered to within the aforesaid six (6) month period. Upon advance written application for good cause, a renewal for an additional six (6) month period may be granted by the Secretary of the Area Plan Commission.
10. The Variance Application is subject to the terms contained therein and the plans on file subject to the following additional conditions:
 - a) Subject to an Improvement Location Permit being amended.
 - b) Subject to a Building Permit being amended.
 - c) Subject to the property being in compliance at all times with the applicable zoning ordinances of Warrick County.
 - d) Subject to all utility easement and facilities in place.

Motion was seconded by Doris Horn and unanimously carried.

Mrs. Rector said their approval would be ready to pick up on Thursday.

BZA-V-18-09

APPLICANT: Custom Sign & Engineering, Inc. by Debra Mounts, Sales Rep.

OWNER: Evansville Christian School by Paul Bair, CFO

PREMISES AFFECTED: Property located on the west side of Epworth Rd approximately 600' N of the intersection formed by Epworth Rd and Lincoln Rd. Ohio Twp. Lots 3&4 in Epworth Lincoln Sub. *4401 Epworth Rd.*

NATURE OF CASE: Applicant requests a Variance from the requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, IN to allow an Improvement Location Permit to be issued for a sign on the building exceeding the 25 square foot maximum sign requirement allowed in an "A" Agricultural Zoning District. *Complete legal on file (advertised in The Standard on May 17, 2018)*

Michael Allen & Debra Mounts were present.

The Chairman called for a staff report.

Mrs. Rector stated we have all of the return receipts. She said this is the location of Evansville Christian School in an agricultural zoning district. The properties to the south and west are zoned "A" agricultural with churches. She added to the east is zoned "A" agricultural, "R-1" and

“R-2” residential with single family dwellings. She stated the property to the north is zoned “A” agricultural with a single family dwelling and Ohio Township’s Trustee office, and “M-1” light industrial with a hospital. She said there is no flood plain and they have an existing drive on Epworth Rd and using an existing drive for Epworth Methodist Church on Lincoln Ave. She stated with the school being in an agricultural zoning district they are only allowed a maximum of 25 square feet of signage. She said if the school would have been in any of the other zoning district they would have had starting with 1 foot up to 2.5 square feet of sign area for each linear foot of the building or lot frontage without needing a variance. She added they are asking for 125 square feet of signage to put the name on the school and for it to be legible from the roadway. She said the applicant’s proposed statement: “additional square footage”. Mrs. Rector added this is an area we need to look at in our ordinance because we didn’t think about schools and religious facilities being allowed in an “A” agricultural zoning district.

Terry Dayvolt asked if they would be able to come back for a digital sign.

Mrs. Rector replied they can’t have an electronic message board in an “A” agricultural zoning district and we cannot give them a variance for a use.

Ascertaining there were no questions from the Board and no remonstrators present the Chairman called for a motion.

I, Terry Dayvolt, make a motion to approve the Variance Application based upon and including the following findings of fact:

1. The grant of the Variance will not be injurious to the public health, safety, morals, and general welfare of the Community. As such, it is further found that the granting of the Variance shall not be materially detrimental to the public welfare.
2. The use or value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner. As such, it is further found that the granting of the Variance shall not result in substantial detriment to adjacent property or the surrounding neighborhood.
3. The need for the Variance arises from some condition peculiar to the property involved. The peculiar condition constituting a hardship is unique to the property involved or so limited to such a small number of properties that it constitutes a marked exception to the property in the neighborhood. Such condition is the ordinance does not take into consideration signage on larger facilities allowed in an “A” agricultural zoning district.
4. The strict application of the terms of the Warrick County Comprehensive Zoning Ordinance will constitute a practical difficulty, unusual and unnecessary hardship if applied to the property for which the Variance is sought.
5. The approval does not interfere substantially with the Warrick County Comprehensive Zoning Ordinance adopted pursuant to IC 36-7-4-500 et seq.

6. The granting of the Variance is necessary in order to preserve a substantial property right of the petitioner to use the property in a reasonable manner, and not merely to allow the petitioner some opportunity to use his property in a more profitable way or to sell it at a greater profit.
7. That the hardship to the applicant's use of the property was not self-created by any person having an interest in the property nor is the result of mere disregard for or ignorance of the provisions of the Warrick County Comprehensive Zoning Ordinance.
8. The approval of the requested Variance is the least modification of applicable regulations possible so that the substantial intent and purpose of those regulations contained in the Warrick County Comprehensive Zoning Ordinance shall be preserved.
9. This Variance shall expire six (6) months after this date, UNLESS a Permit based upon and incorporating this Variance is obtained within the aforesaid six (6) month period or unless the provision of the Variance are adhered to within the aforesaid six (6) month period. Upon advance written application for good cause, a renewal for an additional six (6) month period may be granted by the Secretary of the Area Plan Commission.
10. The Variance Application is subject to the terms contained therein and the plans on file subject to the following additional conditions:
 - a) Subject to an Improvement Location Permit being obtained.
 - b) Subject to a Building Permit being obtained.
 - c) Subject to the property being in compliance at all times with the applicable zoning ordinances of Warrick County.
 - d) Subject to all utility easement and facilities in place.

Motion was seconded by Mike Moesner and unanimously approved.

OTHER BUSINESS:

BZA-V-15-18

APPLICANT & OWNER: Daniel G. & Sally S. Rainey 10540 Yellowbanks Trail.

The applicant's received a variance on November 25, 2015 allowing a manufactured home being placed on the property with another residence. The owners were given 120 days from the certificate of occupancy being issued to remove the other residence. The certificate of occupancy was issued on June 15, 2016 and the residence is still standing.

Mrs. Rector stated that the house is down and the basement has been filled in. She said we have pictures showing this.

The Chairman called for a motion.

Jeff Willis made a motion that BZA-V-15-18 is no longer in violation . Jeff Valiant seconded and the motion carried unanimously.

ATTORNEY BUSINESS:

None

EXECUTIVE DIRECTOR:

None.

Being no further business the meeting adjourned at 6:22 p.m.

Jeff Valiant

ATTEST:

The undersigned Secretary of the Warrick County Board of Zoning Appeals does hereby certify the above and foregoing is a full and complete record of the Minutes of the said Board at their monthly meeting held May 29, 2018.

Sherri Rector, Executive Director